

9 pm
11/9/00

See Attachment

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ROBERT LEON BUCKNER,
Plaintiff

:

:

vs.

:

CIVIL ACTION NO. 1:CV-00-1594

DR. ANTHONY BUSSANICH,
DONALD ROMINE, Warden
Defendants

:

:

FILED
HARRISBURG, PA

O R D E R

NOV 0 8 2000

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

MARY E. D'ANDREA, CLERK
Per gtd
Deputy Clerk

Under Fed. R. Civ. P. 59(e), the pro se plaintiff, Robert Leon Buckner, an inmate at FPC-Lewisburg, Pennsylvania, has filed a timely motion to alter or amend, styled as a motion for reconsideration. The motion seeks to reopen this case.

In his complaint, the Plaintiff sought monetary and injunctive relief based on the defendants' alleged refusal to provide proper treatment for his Meniere's disease. We dismissed the complaint without prejudice for failure to exhaust administrative remedies.

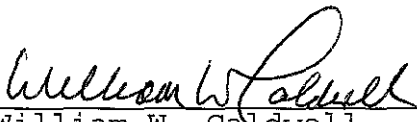
In his motion for reconsideration, the Plaintiff alleges that he has tried to complete the administrative process but can no longer do so. First, he has been informed that he cannot now appeal the warden's response because the twenty-day period for doing so has expired. Second, he has been told that he cannot

begin with an informal request because he has been through that process already.

We will reopen this case and require service of process to explore whether a prisoner can maintain a cause of action after he has perhaps inadvertently defaulted on his administrative remedies. We note that section 1997e(a) is not a jurisdictional requirement. See Nyhuis v. Reno, 204 F.3d 65, 69 (3d Cir. 2000).

AND NOW, this 8th day of November, 2000, upon consideration of the Plaintiff's motion to reconsider (doc. 8), it is ordered that:

1. The motion is granted and the Clerk of Court shall reopen this file.
2. The Clerk of Court shall cause service of process to issue in accord with Fed. R. Civ. P. 4.


William W. Caldwell
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

* * MAILING CERTIFICATE OF CLERK * *

November 8, 2000

Re: 1:00-cv-01594 Buckner v. Bussanich

True and correct copies of the attached were mailed by the clerk
to the following:

Robert Leon Buckner
USP-LEW2
Federal Prison Camp
33001-037
P.O. Box 2000, Unit 1
Lewisburg, PA 17837-2000

cc:

Judge	()	
Magistrate Judge	()	
U.S. Marshal	()	
Probation	()	
U.S. Attorney	()	
Atty. for Deft.	()	
Defendant	()	
Warden	()	
Bureau of Prisons	()	
Ct Reporter	()	
Ctroom Deputy	()	
Orig-Security	()	
Federal Public Defender	()	
Summons Issued	()	with N/C attached to complt. and served by: U.S. Marshal () Pltf's Attorney ()
Standard Order 93-5	()	
Order to Show Cause	()	with Petition attached & mailed certified mail to: US Atty Gen () PA Atty Gen () DA of County () Respondents ()
Bankruptcy Court	()	
Other	()	

MARY E. D'ANDREA, Clerk

DATE: 11/8/00

BY: 
Deputy Clerk